

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

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| JEREMIAH HUNLEY, |) | |
| |) | |
| Plaintiff, |) | |
| |) | No. 3:10-CV-455 |
| v. |) | (COLLIER/GUYTON) |
| |) | |
| GLENCORE LTD, INC., and |) | |
| EAST TENNESSEE ZINC CO., LLC, |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and the Standing Order 13-02. Now before the Court is Defendant Glencore's Motion to Compel [Doc. 196], which, among other things, moves the Court to compel Mr. Charlie York to appear for depositions.

On July 10, 2013, the Plaintiff filed the Declaration of Charlie York, [Doc. 146-7], in support of its position that the Court has diversity jurisdiction over this case. On August 5, 2013, Mr. York was served with a subpoena directing that he appear at the office of Defendant Glencore's attorney on August 16, 2013, and provide deposition testimony. [Doc. 205]. Mr. York did not appear for his deposition on August 16, 2013. The instant Motion to Compel followed, and at oral arguments, counsel for Defendant Glencore stated that the deposition has not been rescheduled.

A non-party may be compelled to attend a deposition under Rule 45 of the Federal Rules of Civil Procedure. See Fed. R. Civ. P. 30(a)(1). The Court finds that Defendant Glencore

properly served Mr. York with a subpoena to testify in a civil action. Mr. York failed to attend the deposition on August 16, 2013, and as of September 3, 2013, Mr. York and counsel for Defendant Glencore have not made arrangements for Mr. York's deposition to be taken at another time or location. Neither Mr. York nor any counsel on his behalf attended the hearing before the undersigned, to offer an alternative date, time, or location for the deposition. Accordingly, the Court finds that the Motion to Compel is well-taken, with regard to Mr. York, and it is **GRANTED**.

Mr. Charlie York is **ORDERED** to appear at the office of Baker, Donelson, Bearman, Caldwell & Berkowitz, 265 Brookview Centre Way, Suite 600, Knoxville, TN, 37919, at **11:00 a.m. on September 25, 2013**, to offer testimony and produce documents as stated in the subpoena previously served upon him. Mr. York's failure to attend may result in imposition of appropriate sanctions, which may include Mr. York being held in contempt of court. See Fed. R. Civ. P. 37(b).

The Clerk of Court **SHALL SERVE** a copy of this Memorandum and Order and a copy of the subpoena [Doc. 205] on Mr. York, via certified mail with signature confirmation. If Defendant Glencore has not yet tendered fees for one day's attendance and mileage to Mr. York, it **SHALL TENDER** the fees and mileage immediately.

IT IS SO ORDERED.

ENTER:

/s H. Bruce Guyton
United States Magistrate Judge